IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPLICATION NO. 213 OF 2002.

The Commissioner of Income Tax
Mumbai City-I, Mumbai. ... Applicant.

V/s.

Indian Express Newspapers
(Mumbai) Pvt.Ltd. ... Respondent.

Ashok Kotangale for the applicant.

P.J.Pardiwala with Vinayak Shete i/b. Poorvi Kamani for the respondent.

CORAM : **DR.S.RADHAKRISHNAN and V.C.DAGA, JJ.**

DATED : **9th April 2007.**

P.C. :

. Heard learned counsel for the applicant.

None appears for the respondent.

2. In the above application, the following substantial question of law is sought to be referred:

> "Whether on the facts and in the circumstances of the case, the tribunal was right in law in upholding the order of CIT(A) that reimbursement of medical expenses cannot be taken into account either as salary or as perquisite for the purpose of computing the disallowance u/s. 40A(5) or u/s. 40(c)?

3. By consent of parties the above application is treated as statement of case.

4. The learned counsel for both parties fairly state that the question of law involved in the above appeal is squarely covered by the judgment of the Supreme Court in **C.I.T. v. Mafatlal Gangabhai & Co.P.Ltd.,** (1996) 219 ITR 644 in favour of revenue and against the assessee. In view thereof, question is answered in favour of revenue and against the assessee. Application stands disposed of accordingly.

(V.C.DAGA J.) **(DR.S.RADHAKRISHNAN,J.)**